IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHT DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 23590 of 1999

Between:

V.Prasad Rao S/o.Late Thirupathi Rao
R/o.Metpally Village, Karimnagar District.

.... PETITIONER

AND

1 The Divisional Superintendent of Police
Sircilla, Karimnagar District.
2 The Superintendent of Police
Karimnagar.
3 Mr.Pruthvidhar Rao, S/o. Vasa Rao
R/o.Venugopalpur Village, Sircilla Mandal,
Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of a Writ of Mandamus: i) declaring the action of the Respondent No.1 in taking away my bus, bearing No.AIM-7166 as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India: ii) direct the Respondent No.1 herein to return the said Bus bearing No.AIM-7166 to the petitioner herein; during the pendency of the Writ Petition.

Counsel for the Petitioner:MR.A.SUDERSHAN REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

Counsel for the Respondent No.3. -

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23590 OF 1999

ORDER:

The petitioner is owner of bus bearing No.AIM 7166. He alleged that first respondent has sent constables to seize the bus in relation to a dispute for payment of money by the petitioner allegedly due to third respondent. It is also alleged that on 6.11.1999 first respondent took away the bus at the behest of third respondent. Therefore, he filed the Writ Petition seeking a declaration and direction. He also filed W.P.M.P.No.29623 of 1999 for interim direction to respondents 1 and 2 to return the bus to the petitioner. By order dt.15.11.1999 this Court while dismissing the application gave liberty to the petitioner to approach second respondent with appropriate application whereupon second respondent was directed to enquire into the matter and take appropriate action in the matter.

Be that as it is, in the counter affidavit filed by second respondent while denying the allegation that the bus was taken away, it is further stated as under.

> The allegation that the bus taken away by the respondent No.1 and kept in some place which he is unable to locate, is also incorrect. I also submit that on receipt of the representation made by the petitioner, it is revealed that the 3rd respondent tried to take away the bus and stopped the bus from plying and as such, the petitioner preferred writ petition. On verification from the 3rd respondent and writ petitioner, it is found that the bus is in custody of the petitioner only and this respondent is in no way responsible for the alleged act of the 3rd respondent and the petitioner is in possession of bus and as such, the writ petition is not maintainable against the respondents 1 and 2 and is liable to be dismissed.

The petitioner has not chosen to file any reply affidavit denying the allegations. Therefore, un-controverted counter averments may be taken as proved. The allegation made by the petitioner lacks truth and on such allegation, no writ as prayed can be granted. It is however made clear that in a private dispute between third respondent and petitioner even in relation to payment of a debt, the Police have

no say, and third respondent and petitioner have to resolve their dispute in Civil Court.

The Writ Petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO, J)

8.7.2005

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To

1 The Divisional Superintendent of Police
Sircilla, Karimnagar District.
2 The Superintendent of Police
Karimnagar.

3 2 CCs to G.P. for Home, High Court Bldgs., Hyderabad (OUT)

4 2 CD copies